



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
U.S. ARMY ENGINEER DISTRICT, MOBILE  
CORPS OF ENGINEERS  
BIRMINGHAM FIELD OFFICE  
218 SUMMIT PARKWAY, SUITE 222  
HOMEWOOD, ALABAMA 35209

March 1, 2013

Inland Branch  
Regulatory Division

SUBJECT: SAM-2012-01499-CMS; Shannon Mine No. 2 Revision R-9

Shannon, LLC  
Attention: Mr. Steve Ingle  
Post Office Box 621  
Jasper, Alabama 35502-0621

Dear Mr. Ingle:

We have reviewed your preconstruction notification to impact 11.26 acres of other waters of the United States (open waters) in association with coal remining activities at Shannon Mine No. 2 Revision R-9, Bessemer, Jefferson County, Alabama (33.354871,-87.064075). Department of the Army permit authorization is necessary because your project would involve the placement of dredged and/or fill material into waters of the U.S., including wetlands under our regulatory jurisdiction.

Based on the information provided to us, Nationwide Permit (NWP) 49, Coal Remining Activities (Federal Register, February 21, 2012 Vol. 77, No. 34), authorizes your proposal as depicted in the materials you submitted to our office. In order for this NWP authorization to be valid, you must ensure that the work is performed in accordance with the General Conditions of Nationwide Permit 49, which can be viewed at our website at [www.sam.usace.army.mil/Missions/Regulatory.aspx](http://www.sam.usace.army.mil/Missions/Regulatory.aspx).

Additionally, we have determined that no compensatory mitigation is required for this project because the project will result in a net increase in aquatic resource functions at the project site by eliminating areas where surface waters contact exposed coal seams and by removing highwall ponds that currently impound water and restoring the historic upland drainage patterns.

Our verification of this NWP authorization is valid until March 18, 2017, unless the NWP is modified, reissued, or revoked prior to that date. Our verification will remain valid if the NWP is reissued without modification, or if the proposed activity complies with any subsequent modification of the NWP. Furthermore, if the applicant commences or is under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, or expired, the applicant will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit. Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water

Act and/or Section 10 of the 1899 Rivers and Harbors Act. You must also obtain all State and local permits that apply to this project.

We have also determined that your project will impact 5.17 acres of waters that have been determined to be non-jurisdictional under our regulations. This determination was coordinated with the U.S. Environmental Protection Agency. If you object to this determination, you may request an administrative appeal under our regulations 33 CFR 331 as described in the enclosed *Appeal Process Fact Sheet* and the *Notification of Administrative Appeal Options and Process and Request for Appeal* form. We have also prepared and enclosed a *Preliminary Jurisdictional Determination* (JD), which is a written indication that wetlands and waterways within your project area may be waters of the United States. Such waters will be treated as jurisdictional waters of the U.S. for purposes of computation of impact area and compensatory mitigation requirements associated with your permit application. If you believe the Preliminary JD is inaccurate, you may request an Approved JD, which is an official determination regarding the presence or absence of waters of the U.S. If one is requested, please be aware that we may require the submittal of additional information to complete an approved JD and work authorized in this letter may not occur until the approved JD has been finalized.

The District Engineer shall be notified promptly in writing at the commencement and within 60 days upon completion of the work. The enclosed form letter(s) may be used for that purpose. If the scope of work or project locations changes, you are urged to contact this office for a verification of this determination. This letter of authorization does not obviate the necessity to obtain any other Federal, State, or local permits, which may be required.

A copy of this letter will be sent to McGehee Engineering Corporation, Post Office Box 3431, Jasper, Alabama 35502. Please contact me at (205) 290-9096 or [Casey.H.Ehorn@usace.army.mil](mailto:Casey.H.Ehorn@usace.army.mil) if you have any questions. For additional information about our Regulatory Program, visit our web site at [www.sam.usace.army.mil/Missions/Regulatory.aspx](http://www.sam.usace.army.mil/Missions/Regulatory.aspx), and please take a moment to complete our customer satisfaction survey. Your responses are appreciated and will allow us to improve our services.

Sincerely,

Casey Ehorn  
Regulatory Division

EHORN/RD-I-N

Enclosures

REVIEWER RD-I-N

RD-IN-N File